II

118TH CONGRESS
2D SESSION

S. 4860

To amend title XVIII of the Social Security Act to establish coverage for certain residential substance use disorder services under the Medicare program.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2024

Mr. CASEY introduced the following bill; which was read twice and referred to the Committee on Finance

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A BILL

To amend title XVIII of the Social Security Act to establish coverage for certain residential substance use disorder services under the Medicare program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Residential Recovery for Seniors Act''.

SEC. 2. ESTABLISHING COVERAGE FOR CERTAIN RESIDENTIAL SUBSTANCE USE DISORDER SERVICES UNDER THE MEDICARE PROGRAM.

(a) COVERAGE UNDER PART A.—Section 1812(a) of the Social Security Act (42 U.S.C. 1395d(a)) is amended—

(1) in paragraph (4), by striking ''and'' at the end;

(2) in paragraph (5), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(6) clinically managed low-intensity residential substance use disorder services (as defined in section 1861(nnn)(1)) furnished to an individual who is a resident of a clinically managed residential substance use disorder facility (as defined in section 1861(nnn)(3)) if the individual's initial need for such level of services is performed, and continued need for such level of services is reviewed and reaffirmed periodically (on a frequency specified by the Secretary that is not less often than every 30 days), in accordance with the most current edition approved by the Secretary of evidence-based substance use disorder-specific criteria developed by a non-

profit medical association generally recognized for its expertise in addiction treatment;

''(7) clinically managed high-intensity residential substance use disorder services (as defined in section 1861(ooo)(1)) furnished to an individual who is a resident of a clinically managed residential substance use disorder facility (as defined in section 1861(nnn)(3)) if the individual's initial need for such level of services is performed, and continued need for such level of services is reviewed and reaffirmed periodically (on a frequency specified by the Secretary that is not less often than every 30 days), in accordance with the most current edition approved by the Secretary of evidence-based substance use disorder-specific criteria developed by a nonprofit medical association generally recognized for its expertise in addiction treatment; and

''(8) medically managed residential substance use disorder services (as defined in section 1861(ppp)(1)) furnished to an individual who is a resident of a medically managed residential substance use disorder facility (as defined in section 1861(ppp)(3)) if the individual's initial need for such level of services is performed, and continued need for such level of services is reviewed and re-

affirmed periodically (on a frequency specified by the Secretary that is not less often than every 10 days), in accordance with the most current edition approved by the Secretary of evidence-based substance use disorder-specific criteria developed by a nonprofit medical association generally recognized for its expertise in addiction treatment.''.

(b) RESIDENTIAL SUBSTANCE USE DISORDER SERVICES, PROGRAMS, AND FACILITIES DEFINED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsections:

''(nnn) CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL SUBSTANCE USE DISORDER SERVICES, PROGRAM, AND FACILITY.—

''(1) CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL SUBSTANCE USE DISORDER SERVICES.—The term 'clinically managed low-intensity residential substance use disorder services' means the following items and services furnished to an individual in a clinically managed low-intensity residential substance use disorder program (as defined in paragraph (2)) and (except as provided in subparagraph (C)) by such program for the treatment of

substance use disorders and co-occurring conditions, including—

"(A) bed and board;

"(B) such clinical services and other related services (including substance use disorder and co-occurring condition assessments and treatment planning), such use of clinically managed residential substance use disorder facilities, and such medical social services (including recovery support services), as are ordinarily furnished by the clinically managed low-intensity residential substance use disorder program for the care and treatment of individuals in such program, and such drugs, supplies, appliances, and equipment, for use in the clinically managed low-intensity residential substance use disorder program, as are ordinarily furnished by such program for the care and treatment of individuals in such program; and

"(C) such other diagnostic or therapeutic items or services, furnished by the clinically managed low-intensity residential substance use disorder program or by others under arrangements with them made by the clinically managed low-intensity residential substance use dis-

order program, as are ordinarily furnished to individuals either by such clinically managed low-intensity residential substance use disorder program or by others under such arrangements, excluding—

"(i) medical or surgical services provided by a physician, services described by subsection (s)(2)(K), and qualified psychologist services; and

"(ii) the services of a private-duty nurse or other private-duty attendant.

"(2) CLINICALLY MANAGED LOW-INTENSITY RESIDENTIAL SUBSTANCE USE DISORDER PROGRAM.—The term 'clinically managed low-intensity residential substance use disorder program' means a residential program which—

"(A) is primarily engaged in providing 24-hour structure and support and integrated clinical services for the diagnosis, treatment, and care of individuals with substance use disorders who need structure and support to build and practice their recovery and coping skills;

"(B) directly provides a substance use disorder-specific multidimensional level of care assessment at admission to determine the rec-

ommended level of care, using protocols developed by a physician or advanced practice provider with experience in specialty addiction treatment to confirm the appropriateness of treatment in such program for individuals who are intoxicated, experiencing withdrawal, or presenting with biomedical comorbidities;

''(C) directly provides, or has a direct affiliation with, a provider or providers who can provide physical examinations, prescribe all addiction and psychiatric medications, and provide medication management and laboratory testing as needed (except that access to methadone is not required if no providers of methadone for opioid use disorder are available, as determined by the Secretary);

''(D) directly provides weekly clinical services, in hourly increments to be determined by the Secretary, in an amount, frequency, and intensity appropriate to an individual's needs as determined by a substance use disorder-specific multidimensional assessment, with structured services available seven days per week;

''(E) maintains clinical records on all patients and maintains such records as the Sec-

retary finds to be necessary to determine the degree and intensity of the treatment provided to individuals entitled to clinically managed low-intensity residential substance use disorder program insurance benefits under part A, provided that the Secretary shall not require a program to maintain such records in a manner that is more extensive, detailed, or stringent than what is required of an institution that is considered a 'hospital' under subsection (e);

''(F) coordinates patient referrals and transitions to other levels of care when needed, including transition planning in partnership with other providers participating in the Medicare program; and

''(G) meets such additional staffing requirements and other conditions as the Secretary shall specify to ensure the effective and efficient furnishing of such program's services and the compliance of such program with clinically managed low-intensity residential substance use disorder program standards described in the most current edition approved by the Secretary of evidence-based substance use disorder-specific criteria developed by a non-

profit medical association generally recognized for its expertise in addiction treatment.

Obtaining and maintaining certification from a certifying body that has the necessary competencies to assess compliance with such program standards and is approved by the Secretary shall be deemed to demonstrate compliance with the standards described in subparagraph (G).

''(3) CLINICALLY MANAGED RESIDENTIAL SUBSTANCE USE DISORDER FACILITY.—The term 'clinically managed residential substance use disorder treatment facility' means a facility which—

''(A) is enrolled under section 1866(j);

''(B) is accredited by an accrediting body approved by the Secretary;

''(C) is legally authorized to provide a clinically managed low- or high-intensity residential substance use disorder program under the law of the State (or under a State regulatory mechanism provided by State law) in which the facility is located; and

''(D) meets such additional conditions as the Secretary finds necessary in the interest of the health and safety of individuals who are residents of such facilities and are furnished

clinically managed low-intensity residential substance use disorder services (or clinically managed high-intensity residential substance use disorder services, as the case may be).

"(ooo) CLINICALLY MANAGED HIGH-INTENSITY RESIDENTIAL SUBSTANCE USE DISORDER SERVICES AND PROGRAM.—

"(1) CLINICALLY MANAGED HIGH-INTENSITY RESIDENTIAL SUBSTANCE USE DISORDER SERVICES.—The term 'clinically managed high-intensity residential substance use disorder services' means the following items and services furnished to an individual in a clinically managed high-intensity residential substance use disorder program (as defined in paragraph (2)) and (except as provided in subparagraph (C)) by such program for the treatment of substance use disorders and co-occurring conditions, including—

"(A) bed and board;

"(B) such clinical services and other related services (including substance use disorder and co-occurring condition assessments and treatment planning), such use of clinically managed residential substance use disorder facilities, and such medical social services (including

recovery support services), as are ordinarily furnished by the clinically managed high-intensity residential substance use disorder program for the care and treatment of individuals in such program, and such drugs, supplies, appliances, and equipment, for use in the clinically managed high-intensity residential substance use disorder program, as are ordinarily furnished by such program for the care and treatment of individuals in such program; and

''(C) such other diagnostic or therapeutic items or services, furnished by the clinically managed high-intensity residential substance use disorder program or by others under arrangements with them made by the clinically managed high-intensity residential substance use disorder program, as are ordinarily furnished to individuals either by such clinically managed high-intensity residential substance use disorder program or by others under such arrangements, excluding—

''(i) medical or surgical services provided by a physician, services described by subsection (s)(2)(K), and qualified psychologist services; and

"(ii) the services of a private-duty nurse or other private-duty attendant.

"(2) CLINICALLY MANAGED HIGH-INTENSITY RESIDENTIAL SUBSTANCE USE DISORDER PROGRAM.—The term 'clinically managed high-intensity residential substance use disorder program' means a residential program that—

"(A) is primarily engaged in providing 24-hour supervision for the diagnosis, treatment, and care of individuals with substance use disorders who need a safe and stable living environment to develop sufficient recovery skills so that they do not immediately relapse or continue to use in an imminently dangerous manner upon transition to a less intensive level of care;

"(B) directly provides a substance use disorder-specific multidimensional level of care assessment at admission to determine the recommended level of care, using protocols developed by a physician or advanced practice provider experienced in specialty addiction treatment to confirm the appropriateness of treatment in such facility for individuals who are in-

toxicated, experiencing withdrawal, or presenting with biomedical comorbidities;

''(C) directly provides, or has a direct affiliation with, a provider or providers who can provide physical examinations, prescribe all addiction and psychiatric medications, and provide medication management and laboratory testing as needed (except that access to methadone is not required if no providers of methadone for opioid use disorder are available, as determined by the Secretary);

''(D) directly provides 20 hours or more of clinical services per week in an amount, frequency, and intensity appropriate to individual patient needs as determined by a substance use disorder-specific multidimensional assessment, with structured services available seven days per week;

''(E) directly provides clinically managed residential withdrawal management, including 24-hour supervision, observation, and support for individuals who are intoxicated or experiencing withdrawal, who do not need medically monitored or managed care (as determined through a medical evaluation);

''(F) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals entitled to clinically managed high-intensity residential substance use disorder program insurance benefits under part A, provided that the Secretary shall not require a program to maintain such records in a manner that is more extensive, detailed, or stringent than what is required of an institution that is considered a 'hospital' under subsection (e);

''(G) manages patient referrals and transitions to other levels of care when needed; and

''(H) meets such additional staffing requirements and other conditions as the Secretary shall specify to ensure the effective and efficient furnishing of such program's services and the compliance of such program with clinically managed high-intensity residential substance use disorder program standards described in the most current edition approved by the Secretary of evidence-based substance use disorder-specific criteria developed by a non-

profit medical association generally recognized for its expertise in addiction treatment.

Obtaining and maintaining certification from a certifying body that has the necessary competencies to assess compliance with such program standards and is approved by the Secretary shall be deemed to demonstrate compliance with the standards described in subparagraph (H).

''(ppp) MEDICALLY MANAGED RESIDENTIAL SUBSTANCE USE DISORDER SERVICES, PROGRAM, AND FACILITY.—

''(1) MEDICALLY MANAGED RESIDENTIAL SUBSTANCE USE DISORDER SERVICES.—The term 'medically managed residential substance use disorder services' means the following items and services furnished to an individual in a medically managed residential substance use disorder program (as defined in paragraph (2)) and (except as provided in subparagraph (C)) by such program for the treatment of substance use disorders and co-occurring conditions, including—

''(A) bed and board;

''(B) 24-hour nursing services;

''(C) such clinical services and other related services (including substance use disorder

and co-occurring condition assessments and treatment planning), such use of medically managed residential substance use disorder facilities, and such medical social services (including recovery support services), as are ordinarily furnished by the medically managed residential substance use disorder program for the care and treatment of residents of such program, and such drugs, supplies, appliances, and equipment, for use in the medically managed residential substance use disorder program, as are ordinarily furnished by such program for the care and treatment of residents of such program; and

''(D) such other diagnostic or therapeutic items or services, furnished by the medically managed residential substance use disorder program or by others under arrangements with them made by the medically managed residential substance use disorder program, as are ordinarily furnished to residents either by the medically managed residential substance use disorder program or by others under such arrangements, excluding—

"(i) medical or surgical services provided by a physician, services described by subsection (s)(2)(K), and qualified psychologist services; and

"(ii) the services of a private-duty nurse or other private-duty attendant.

"(2) MEDICALLY MANAGED RESIDENTIAL SUBSTANCE USE DISORDER PROGRAM.—The term 'medically managed residential substance use disorder program' means a residential program that—

"(A) is primarily engaged in providing management of substance withdrawal and biomedical comorbidities, including diagnosis, treatment, and care, for individuals with substance use disorders who need 24-hour observation, monitoring, and treatment, but do not require the full resources of a hospital;

"(B) directly provides a comprehensive nursing assessment at the time of admission, with a substance use disorder-focused history obtained as part of the initial assessment which is reviewed by a physician or advanced practice provider within 24 hours of admission;

"(C) directly provides a comprehensive physical examination by a physician or ad-

vanced practice provider within 24 hours of admission;

''(D) directly provides sufficient biopsychosocial screening and assessments of the patient's substance use disorders and co-occurring disorders to determine the appropriate recommended level of care and treatment planning;

''(E) directly provides daily medical interventions, including nursing and medical monitoring for stabilization of acute withdrawal, biomedical and psychiatric conditions, and psychosocial services to encourage engagement in ongoing treatment, all in an amount, frequency, and intensity appropriate to individual patient needs as determined by a substance use disorder-specific multidimensional assessment;

''(F) directly provides essential medications on site with policies and procedures that define essential medicines based on current standards of clinical practice and that ensure these medications are stocked and access to all Food and Drug Administration-approved medications for the treatment of substance use disorders (except that access to methadone is not required if no providers of methadone for opioid use dis-

order are available, as determined by the Secretary);

"(G) directly provides residential intoxication and withdrawal management services and residential management of biomedical conditions;

"(H) maintains clinical records on all patients and maintains such records as the Secretary finds to be necessary to determine the degree and intensity of the treatment provided to individuals entitled to clinically managed high-intensity residential substance use disorder program insurance benefits under part A, provided that the Secretary shall not require a program to maintain such records in a manner that is more extensive, detailed, or stringent than what is required of an institution that is considered a 'hospital' under subsection (e);

"(I) manages patient transitions to other levels of care when needed; and

"(J) meets such additional staffing requirements and other conditions as the Secretary shall specify to ensure the effective and efficient furnishing of such program's services and the compliance of such program with clini-

cally managed high-intensity residential substance use disorder program standards described in the most current edition approved by the Secretary of evidence-based substance use disorder-specific criteria developed by a nonprofit medical association generally recognized for its expertise in addiction treatment.

Obtaining and maintaining certification from a certifying body that has the necessary competencies to assess compliance with such program standards and is approved by the Secretary shall be deemed to demonstrate compliance with the standards described in subparagraph (J).

''(3) MEDICALLY MANAGED RESIDENTIAL SUBSTANCE USE DISORDER FACILITY.—The term 'medically managed residential substance use disorder treatment facility' means a facility that—

''(A) is enrolled under section 1866(j);

''(B) is accredited by an accrediting body approved by the Secretary;

''(C) is legally authorized to provide a medically managed residential substance use disorder program under the law of the State (or under a State regulatory mechanism provided

by State law) in which the facility is located; and

''(D) meets such additional conditions as the Secretary finds necessary in the interest of the health and safety of individuals who are residents of such facilities and are furnished medically managed residential substance use disorder services.''.

(c) INCLUDING RESIDENTIAL SUBSTANCE USE DISORDER FACILITIES AS MEDICARE PROVIDERS.—Section 1866(e) of the Social Security Act (42 U.S.C. 1395cc(e)) is amended—

(1) in paragraph (2), by striking at the end ''and'';

(2) in paragraph (3), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

''(4) clinically managed residential substance use disorder facilities (as defined in paragraph (3) of section 1861(nnn)), but only with respect to the furnishing of clinically managed low-intensity residential substance use disorder services (as defined in paragraph (1) of such section) and clinically managed high-intensity residential substance use dis-

order services (as defined in paragraph (1) of section 1861(ooo)), as applicable; and

''(5) medically managed residential substance use disorder facilities (as defined in paragraph (3) of section 1861(ppp)), but only with respect to the furnishing of clinically managed low-intensity residential substance use disorder services (as defined in paragraph (1) of section 1861(nnn)), clinically managed high-intensity residential substance use disorder services (as defined in paragraph (1) of section 1861(ooo)), and medically managed residential substance use disorder services (as defined in paragraph (1) of section 1861(ppp)), as applicable.''.

(d) PROSPECTIVE PAYMENT SYSTEM FOR RESIDENTIAL SUBSTANCE USE DISORDER SERVICES.—Section 1886 of the Social Security Act (42 U.S.C. 1395ww) is amended by adding at the end the following new subsection:

''(u) PROSPECTIVE PAYMENT FOR RESIDENTIAL SUBSTANCE USE DISORDER FACILITIES.—

''(1) DEVELOPMENT OF SYSTEM.—The Secretary shall develop a per diem prospective payment system for low-intensity clinically managed, high-intensity clinically managed, and medically managed residential substance use disorder services, as those

terms are defined, respectively, in sections 1861(nnn)(1), 1861(ooo)(1), and 1861(ppp)(1) (in this subsection collectively referred to as 'residential substance use disorder services'). Such system shall include appropriate adjustments to reflect the differing resource-intensity of low-intensity clinically managed, high-intensity clinically managed, and medically managed residential substance use disorder services, and may include an adequate patient classification system that reflects differences in patient resource use and cost. In developing such system, the Secretary may require clinically managed and medically managed residential substance use disorder facilities, as those terms are defined in sections 1861(nnn)(3) and section 1861(ppp)(3), respectively (in this subsection collectively referred to as 'residential substance use disorder facilities'), to submit such information to the Secretary, including cost reports, as the Secretary may require to develop such system.

''(2) IMPLEMENTATION.—

''(A) IN GENERAL.—The Secretary shall provide, for cost reporting periods beginning on or after October 1, 2025, for payments for residential substance use disorder services fur-

nished by residential substance use disorder facilities in accordance with the prospective payment system established by the Secretary under this subsection.

''(B) PAYMENTS.—

''(i) INITIAL PAYMENTS.—The Secretary shall implement such prospective payment system in the initial fiscal year so that the estimated aggregate amount of prospective payment rates is equal to 100 percent of the estimated amount of reasonable costs incurred by residential substance use disorder facilities in furnishing such services.

''(ii) PAYMENTS IN SUBSEQUENT YEARS.—Payment rates in years after the year of implementation of such system shall be the payment rates in the previous year, adjusted by an increase factor. Such factor shall be based on an appropriate percentage increase in a market basket of goods and services comprising the services for which payment is made under this subsection.''.

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